* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No.: 94-66-A

RYAN OPERATIONS GP

Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for Baltimore County as a Petition for Variance filed by the owner of the subject property, Ryan Operations G.P., by Kevin Kerwin, Vice-President, through their attorneys Howard L. Alderman, Jr., Esquire and Kathryn T. May, Esquire. The Petitioner seeks relief from Section 1B01.2.C of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section V.B.6.b of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a window to property line distance of 9 feet in lieu of the required 15 feet, and an amendment of the development plan of Sheperd's Glen to permit an existing dwelling to be located outside of the building envelope, 6 feet from the property line adjacent to a panhandle drive, in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition was John Mildenberg, a land surveyor and engineer with Mildenberg, Mochi and Associates, Inc. who was authorized to represent the property owner at the public hearing. The Petitioner was represented by Kathryn T. May, Esquire. There were no Protestants present.

Testimony indicated that the subject property consists of a

gross area of 0.208 acres (9,065 square feet), more or less, zoned D.R. 3.5, and is improved with a single family dwelling. The subject property, known as lot 37 and bearing the address 3 Romney Court, is located within the Sheperd's Glen subdivision.

Testimony indicated that the B.C.Z.R. have been substantially amended and the former C.M.D.P. replaced with new development policies such that if the subject property was reviewed for development today, the requested variance for window to property line relationships established by the previous provisions of the B.C.Z.R. and the C.M.D.P. would not be necessary.

Further testimony indicated that the configuration of the subject property is irregular in shape; that it is located on a panhandle off of Romney Court; and that the area in which the variance is sought is adjacent to the panhandle strip serving the adjacent lot, shown on Petitioner's Exhibit 1 as lot 36. Testimony also indicated that the existing dwelling located on the subject property is consistent in style and design with other homes in the surrounding community. Testimony indicated that the discrepancies in the window to property line distance and the location of the home outside the approved building envelope were not discovered until the Petitioner entered into a contract to sell the property and a location survey presented at settlement identified these issues. As a result of these findings, testimony indicated that settlement was canceled because the buyer's lender would not lend funds until the existing improvements were brought into compliance with zoning regulations. The intended buyers of the subject property, who had moved into the new home, were allowed to remain in the home and obtained an option to purchase if and when the variance relief is granted.

Testimony indicated that the Petitioner would experience practical difficulty if strict compliance with the now repealed requirements of the B.C.Z.R. and C.M.D.P. were required. The subject property was described as an irregular shaped lot due to the panhandle configuration. It was further testified that the existing new home was offset from a parallel alignment in an attempt to reduce, to the extent possible, concerns related to traffic and noise associated with Owings Mills Boulevard which adjoins the subject property. It was Mr. Mildenberg's opinion that the stake-out corners for the new home were inadvertently located during construction and that, despite numerous inspections, this error was not discovered until the location survey was prepared and reviewed for settlement.

Mr. Mildenberg also stated that in his professional opinion, the Petitioner would be unnecessarily burdened if required to physically relocate the new home in order to comply with the nowrepealed window to property line distance requirements and with the confines of the arbitrarily drawn building envelope as approved on the Sheperd's Glen final development plan. Finally, Mr. Mildenberg testified that in his professional opinion: (1) conditions exist which are peculiar to the land and buildings on the subject property that justify the variance relief requested; (2) there will be no resultant increase in residential density beyond that

otherwise allowable by the B.C.Z.R. if the requested relief is granted; (3) strict compliance with the B.C.Z.R. and C.M.D.P. would unreasonably prevent use of the subject property for a permitted purpose and would be unnecessarily burdensome and result in practical difficulty to the Petitioner; (4) the relief requested by the Petitioner will do substantial justice to the Petitioner as well as other property owners in the area; (5) the relief requested is the minimum relief necessary and lesser variances would not give substantial relief to the Petitioner nor be more consistent with justice to other property owners; and (6) the requested relief can be granted such that the spirit and intent of the B.C.Z.R. and C.M.D.P. will be observed and the public health, safety and welfare secured.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with the requirement would unreasonably prevent use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial justice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances requested are granted, such use, as proposed will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variances requested, and that the requirements from which Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variances will be in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 23^{-1} day of September, 1993 that the Petition for Variance requesting relief from Section 1B01.2.C.2 of the Baltimore County Zoning Regulations and from Section V.B.6.b of the former Comprehensive Manual of Development Policies and an amendment to the development plan of the Sheperd's Glen subdivision for Lot 37, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

1) The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original

Swith 16trow Timothy Kotrocco, Deputy Zoning

Commissioner for Baltimore County

Suite 113 Courthouse 400 Washington Avenue

September 23, 1993

Baltimore County Government

Zoning Commissioner

Office of Planning and Zoning

(410) 887-4386

Kathryn T. May, Esquire Levin & Gann 305 W. Chesapeake Avenue Towson, Maryland 21204

RE: PETITION FOR VARIANCE W/S Romney Court, 125' N of the c/l of Owings Mills Boulevard (3 Romney Court) 4th Election District - 3rd Councilmanic District Ryan Operations GP - Petitioner Case No. 94-66-A

Dear Ms. May:

Towson, MD 21204

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

TIMOTHY M. KOTROCO

Very truly yours,

cc: People's Counsel

Deputy Zoning Commissioner for Baltimore County

This Petition shall be filed with the Office of Zoning Administration & Development Management The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) See Attached Sheet of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or See Attached Sheet Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filling of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County Mile to coloring declare and affirm under the panelses of parties. That was one that -----John B. Mildenberg, P.E. Mildenberg, Mochi & Assoc., Inc. 3300 North Ridge Road, Suite 235

Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at No. 3 Romney Court, Owings Mills, Md

ATTACHMENT TO PETITION FOR ZONING VARIANCE

ADDRESS: Three Romney Court, Owings Mills, MD 21117

LEGAL OWNER: Ryan Operations, G.P.

VARIANCE REQUESTED:

Lot 37:

From BCZR § 1B01.2.C.2 and CMDP § V.B.6.b to permit a window to property line distance of 9 feet in lieu of the 15 feet required, as more specifically shown on the plat accompanying this Petition; and an amendment of the development plan of Shepperd's Glen to permit an existing dwelling to be located outside of the building envelope, 6 feet from the property line adjacent to a panhandle drive.

JUSTIFICATION:

- Relief requested is to bring existing improvements into compliance.
- Relief requested is based on an irregularly shaped lot and orientation of existing home based on traffic and associated noise concerns.
- Such other relief as will be presented at the time of the hearing on this request.

EXAMPLE 3 - Zoning Description - 3 copies

94-66-A

Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

> ZONING DESCRIPTION FOR No. 3 Romney Court, Owings Mills, Md. 21117 (address)
> Election District 4 Councilmanic District 3

Beginning at a point on the West side of Romney Court (north, south, east or west)

which is 50 feet (number of feet of right-of way width) (street on which property fronts) wide at a distance of 125 feet north of (number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street Owings Mills Boulevard

s ______ wide. *Being Lot #_____37 _____, (number of feet of right-of-way width) which is 70 feet Block _____, Section #_____ in the subdivision of Shepherd's Glen

(name of subdivision) as recorded in Baltimore County Plat Book # ______, Folio # _____55

9,065 square feet or 0.208 acres

(square feet and acres)

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber ____, Folio ___ " and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N.87 12' 13" E. 321.1 ft., S.18 27' 03" E.87.2 ft., S.62 19' 00" W. 318 ft., and N.08 15' 22" W. 80 ft. to the place of beginning.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY 91-46-12

Posted for:

Petitioner: Lydy & post fious, 69

Location of property: 3 About 2004 Way of the friends of friends desired the friends of friends desired the friends of friends desired the leading To proporty Posted by Date of return: 9/10/93

CERTIFICATE OF PUBLICATION

TOWSON, MD., aug 27, 1993 THIS IS TO CERTIFY, that the annexed advertisement was the County Office Building, lo-c ted at 111 W. Chesapeake Av-enue in Towson, Maryland 21204 or Room 118, Old Courinouse, 400 Washington Avenue, Towson, Maryland 21204 as fol-lows: published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of _____ successive weeks, the first publication appearing on Lua 26. 19 93 Case Number: 94-86-A Case Number: 94-68-A
(Item 87)
3 Romney Court
W/S Romney Court, 125' N
of c1 Owings Mills Bouleverd
4th Election District
3rd Councilmanic
Petitioner(s):
Ryan Operations GP
HEARING: THURSDAY,
SEPTEMBER 23, 1993 at
9:30 a.m. in Rm. 118, Old
Courthouse.

THE JEFFERSONIAN. LEGAL AD. - TOWSON

TO COME TO Zoning Administration of Devisionment Maining content 111 West Chesapeaka reseases Towson, Maryland 21203 Zoning Administration & મું છેલું છેલું મુખે Account: R-001-6150 8/11/93 ITEM #67 #610 - RESIDENTIAL VARIANCE --- SOO, (V) #080 - SIGN POSTING ----- \$55.30 TOTAL ----- S85.00 Legal Owner: Ryan Operations 3 Romney Court 4th Election District Attorney: Howard Alderman, Jr. Levin & Gann, P.A.

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue Towson, MD 21204 AUGUST 18, 1993

The Zoning Commissioner of Beltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

NOTICE OF HEARING

CASE NUMBER: 94-66-A (Item 67) 3 Romney Court W/S Romney Court, 125' N of c/l Owings Mills Boulevard 4th Election District - 3rd Councilmanic Petitioner(s): Ryan Operations GP HEARING: THURSDAY, SEPTEMBER 23, 1993 at 9:30 a.m. Rm. 118, Courthouse. Variance for lot 37 to permit a window to property line distance of 9 feet in lieu of the 15 feet required; and an amendment of the development plan of Shepperd's Glen to permit an existing dwelling to be located outside of the building envelope, 6 feet from the property line adjacent to a panhandle drive.

Arnold Jablon

cc: John B. Mildenberg, P.E. Howard L. Alderman, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

TO: PUTUXENT PUBLISHING COMPANY August 26, 1993 Issue - Jeffersonian Please foward billing to:

John B. Mildenberg, P.E. 3300 North Ridge Road, Suite 235 Ellicott City, Maryland 21043

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

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LAWRENCE E. SCHNIDT ZOWING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLRASE CALL 807-3353. (2) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management AT DA

111 West Chesapeake Avenue Towson, MD 21204

Variance: for lot 37 to permit a window to property line distance of 9 feet in lieu of the 15 feet re-

quired; and an amendment of the development plan of Shepperd's Gien to permit an existing dwelling to be located outside of the building envelope, 6 feet from the property line adjacent to a pannandle drive.

(410) 887-3353

September 14, 1993

Howard L. Alderman, Jr., Esquire Levin & Gann, P.A. 30 West Chesapeake Avenue, Suite 113: Towson, Maryland 21204

RE: Case No. 94-66-A, Item No. 67 Petitioner: Ryan Operations CP Petition for Variance

Dear Mr. Alderman:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on August 11, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process

1. The director of Zoning Administration and Development Manag has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the soning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.



Maryland Department of Transportation State Highway Administration

O. James Lighthizer Hal Kassoff Administrator

8-21-93 Re: Baltimore County

Item No.: d. 67 (WCR)

Ms. Helene Kehring Zoning Administration and Development Management County Office Building Room 109 111 W. Chesapeake Avenue Towers Maryland 21204

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Bob Sull John Contestabile, Chief

Engineering Access Permits

My telephone number is Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Calvert St., Baltimore, Maryland 21203-0717

Zo trinted with Soybean ink on Recycled Paper

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE DATE: August 23, 1993 TO: Arnold Jablon, Director Zoning Administration and Development Management FROM: Pat Keller, Deputy Director Office of Planning and Zoning SUBJECT: Petitions from Zoning Advisory Committee The Office of Planning and Zoning has no comments on the following petition(s): Item Nos. 46, 65, 67, 68, 69 and 70. If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480. Prepared by: July M. Jung

Division Chief: Lind. Willow La Co-Ale. ZAC.46/PZONE/ZAC1

Zoning Advisory Committee DATE: August 19, 1993 Captain Jerry Pfeifer SUBJECT: August 30, 1993 Meeting Building shall comply with the 1991 Life Safety Code. R-87-39 Buildings shall comply with the 1991 Life Safety Code. Townhouses, for which the initial building permits are applied for after 07/01/92, are required by State law to be sprinklered. A standard cul-de-sac shall be provided at the end of the road. A 35' inside turning radius shall be maintained. No Comments Building shall comply with the 1991 Life Safety Code. No Comments No Comments No Comments No Comments Building shall comply with the 1991 Life Safety Code.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

Office of Zoning Administration and Development Management 111 West Chesapeake Avenue Towson, MD 21204 (410) 887-3353 August 20, 1993 Howard L. Alderman, Jr. Levin & Gann Suite 113 305 West Chesapeake Avenue Towson, MD 21204 RE: Preliminary Petition Review (Item #67) Legal Owner: Ryan Operations GP 3 Romney Court 4th Election District Dear Mr. Alderman: At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The petition was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete

Baltimore County Government

not hesitate to contact me at 887-3391.

If you need further information or have any questions, please do

JCM:scj cc: Zoning Commissioner Enclosure: Receipt

information.

Printed on Hespelad Paper

RE: PETITION FOR VARIANCE W/S Romney Ct., 125' N of C/L Owings Mills Blvd. (3 Romney : OF BALIDIORE COUNTY Ct.), 4th Election District,

RYAN OPERATIONS OF, Petit Loper :

: BEFORE THE ZONTHO COMMISSIONER

3rd Councilmanic District : Care No. 94-64, 4

MITRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

People's Counsel for Baltimore County

Carole S. Demillo Deputy People's Counsel Room 47, Courthouse 400 Washington Avenue Towson, Maryland 21204 (410) 887-2188

I HEREBY CERTIFY that on this 2nd day of September _____, 1993, a copy of the foregoing Entry of Appearance was mailed to Border to Abderbary Jr., Esmuire, Levin & Gann. P.A., 305 W. Chepapeake Ave., Suite 113, Towner, MD 21204, Attorney for Petitioner.

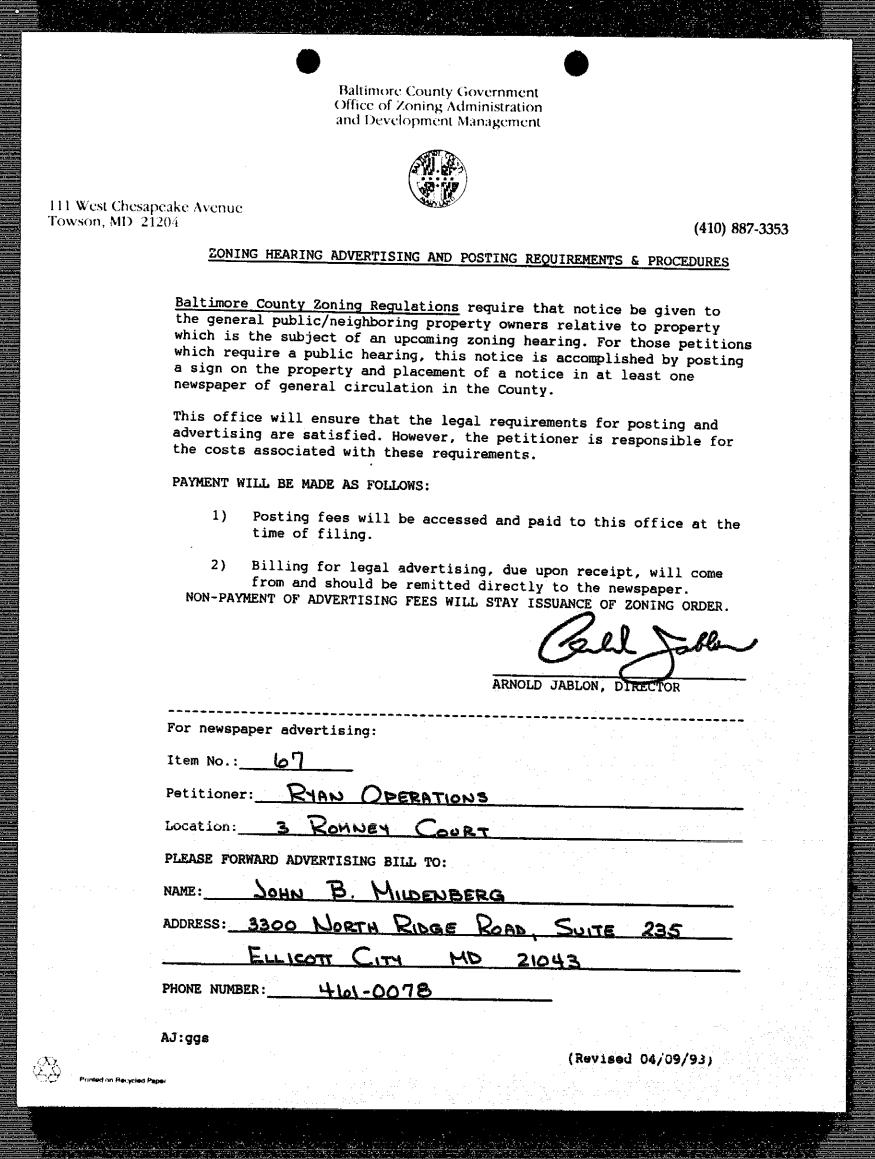
6920-93 LAW OFFICES BALTIMORE OFFICE LEVIN & GANN MERCANTILE BANK & TRUST BUILDING 2 HOPKINS PLAZA A PROFESSIONAL ASSOCIATION 9TH FLOOR 305 W. CHESAPEAKE AVENUE BALTIMORE, MARYLAND 21201 TOWSON, MARYLAND 21204 TELECOPIER 410-625-9050 410-321-0600 TELECOPIER 410-296-2801 HOWARD L. ALDERMAN, JR. August 11, 1993 HAND DELIVERED Arnold Jablon, Director Office of Zoning Administration and Development Management 111 West Chesapeake Avenue Room 109 Towson, MD 21204 RE: Variance Petition for Three Romney Court Ryan Operations, G.P., Current Legal Owner Request for Expedited Hearing Dear Mr. Jablon: I have filed this date a Petition for Variance on the above-referenced property to bring an existing, occupied residential structure into compliance with the Baltimore County Zoning Regulations and CMDP. The need for variance was discovered at the settlement between Ryan Operations G.P. and the family who are the contract purchasers of this new home. The lender would not permit settlement to be concluded until the variance issue is

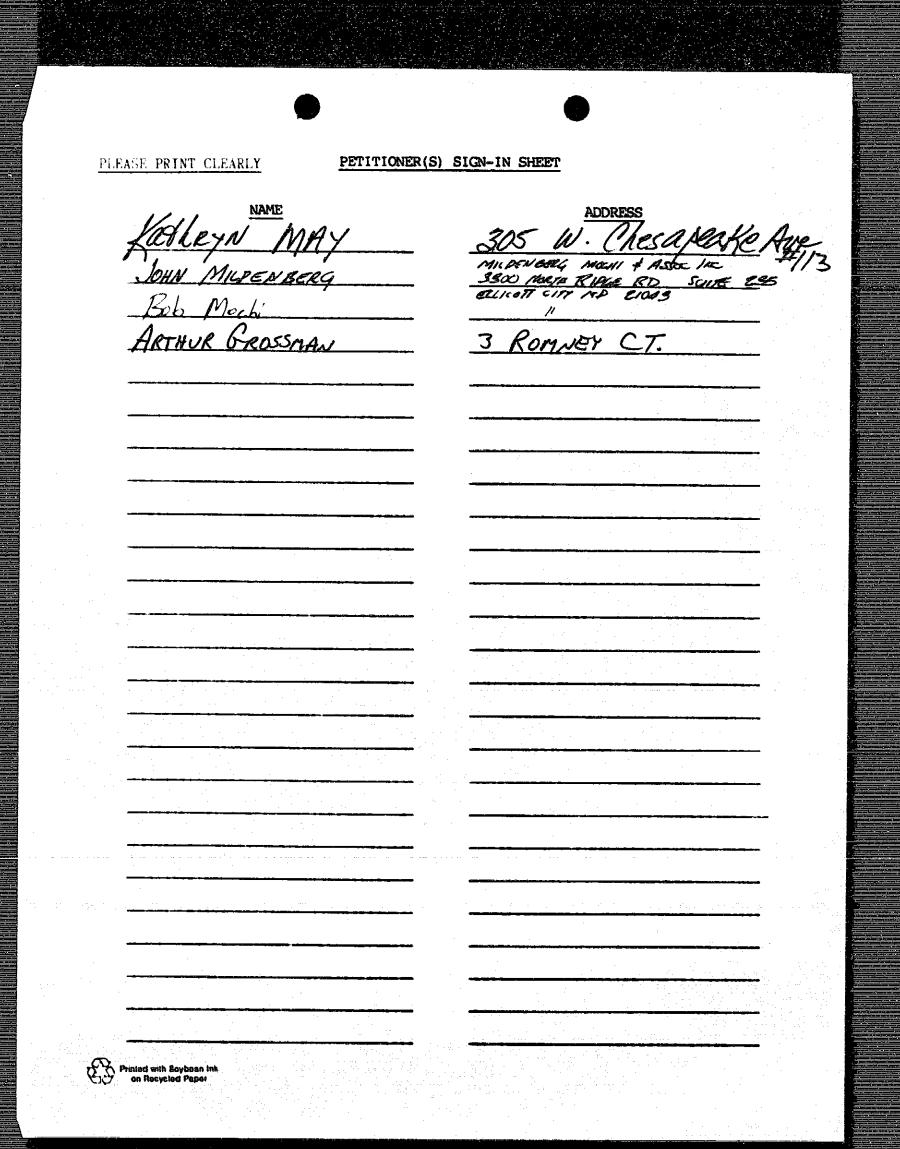
premises and move in.

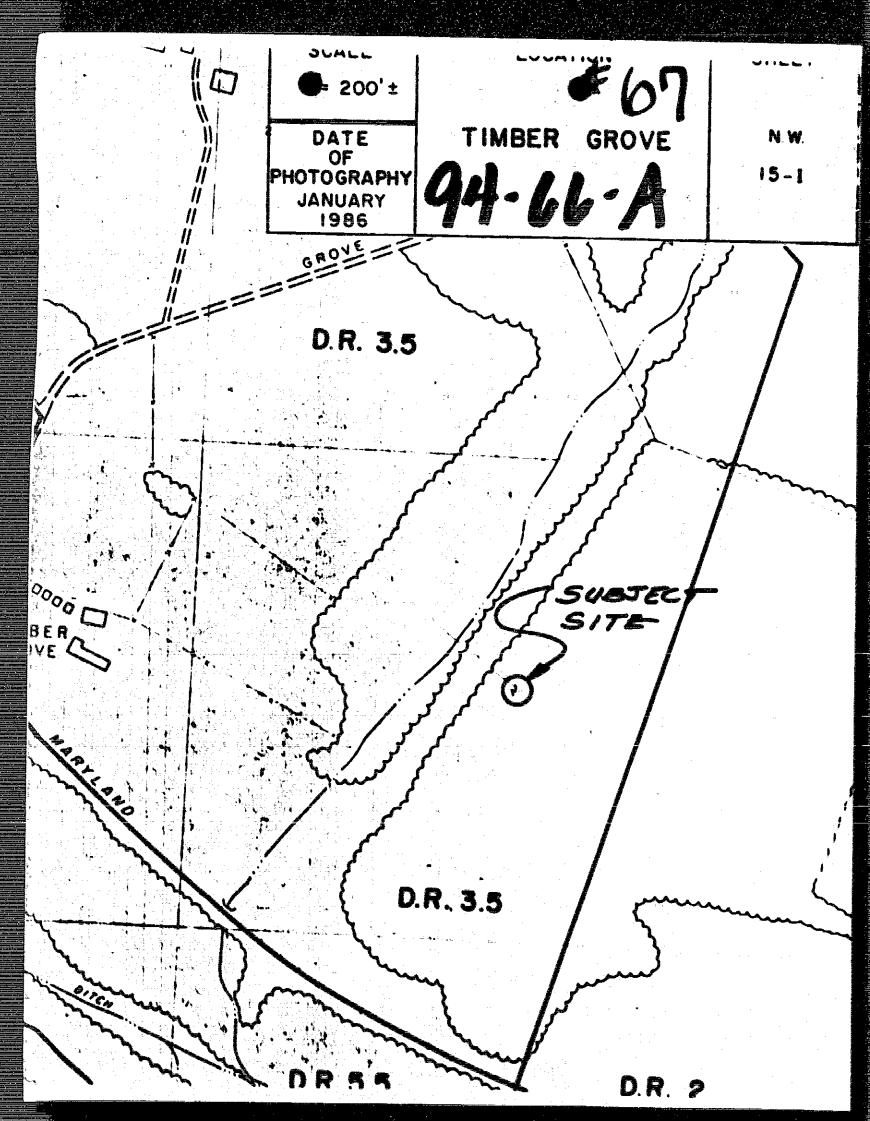
this request.

addressed. Ryan did, however, allow the contract purchasers to take possession of the A hearing on the Petition as promptly as possible will, if the requested relief is granted, enable settlement to occur thereby lessening the burden of finance carry costs on Ryan. Your greatest consideration of this request would be appreciated. Please let me know if I can provide you with any additional information that you may need in consideration of Very truly yours,

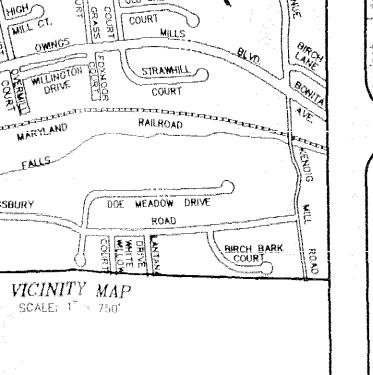
Howard L. Alderman, Jr. ZADM







MII AREA = 9065 SQ.FT. **(45)** O. 20BACKES - PRIVATE 24' INGRESS & EGRESS MAINT. & UTILITY ESMNT. EXISTING II 178.45 (48)



SUBJECT PROPERTY:

Lot 37, #3 Ronney Court Ryan Operations G.P. 1629 Reisterstown Road Baltimore, Maryland 21136

Tax Acct. #2100005187

ADJACENT PROPERTIES:

Lot 36, #5 Romney Court Shepherds Glen Limited Partnership 2324 West Joppa Road Lutherville-Timonium, Maryland 21093

Tax Acct. #2100005186

Lor 38, #9 Romney Court Mitchell Keiser & Melissa Keiser 9 Ronney Court Owings Mills Maryland 21117

Tax Acct. #2100005188

Lot 45, #7 Romney Court Kevin J. Hough & Jean M. Mihal 7-Romney Court Owings Mills, Maryland 21117

Tax Acct. #2100005195

Lot 46, #1 Romney Court
Barry E Studd & Rence E. Studd 1 Ronney Court Owings Mills, Maryland 21117

Tax Acrt. #2100008196

